

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

<http://www.dgs.ca.gov/opsc>



January 7, 2003
IMPLEMENTATION COMMITTEE
MINUTES
U.S. Bank Plaza
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Jim Bush, CDE
Dave Doomey, CASH
Gary Gibbs, CBIA
John Palmer, CASBO
Beth Hamby, LAUSD
Mamie Starr, SSD (Alternate for Constantine Baranoff)
Kathy Allen, ACS (Alternate for Bill Cornelison Morning Only)
Bill Cornelison, ACS (Afternoon Only)
Dennis Dunston, CEFPI
Lenin Del Castillo, DOF
Richard Conrad, DSA (Alternate for Dennis Bellet)
Brian Wiese, AIA
Jay Hansen, SBCTC

Members Absent

Paul Hewitt, SSDA

The meeting on January 7, 2002 was called to order at 9:35 a.m. and there were 15 members present and 1 absent. Jay Hansen from the School Building Construction Trades Council was introduced as a new Implementation Committee member. The alternate representatives as noted above were also introduced. The minutes from the December 4, 2002 meeting were accepted.

2003 IMPLEMENTATION COMMITTEE MEETING DATES

The following 2003 Implementation Committee meetings dates were previously agreed upon:

Tuesday, January 7, 2003
Friday, February 7, 2003
Friday, March 7, 2003
Friday, April 4, 2003
Friday, May 2, 2003
Friday, June 6, 2003

Wednesday, July 2, 2003
Friday, August 1, 2003
Friday, September 5, 2003
Friday, October 3, 2003
Friday, November 7, 2003
Friday, December 5, 2003

In light of the State's budget and the impact to the State employees' ability to travel, it was necessary to schedule all 2003 meeting locations in Sacramento. The Committee agreed to revisit this issue mid-year to determine the viability of changing any the meeting locations to Ontario.

SFP ENROLLMENT PROJECTION – IMPACTS OF AB 14, AB 1994 AND PROPOSITION 39

Lori Morgan and Juan Mireles of the OPSC presented the item. Listed below are the salient discussion items and, where noted, results from research conducting after the meeting:

The primary regulation changes are contained in the Form SAB 50-01, *Enrollment Certification/Projection*, which was presented to the Committee. Part E of the form, dealing with charter school pupil enrollment, was a primary discussion area and suggestions for revisions were received.

SFP ENROLLMENT PROJECTION IMPACTS OF AB 14, AB 1994 AND PROPOSITION 39 (cont.)

A question was raised whether the revised law requirements would supersede the three-year SFP eligibility lock-in for small school districts.

Later clarification was received from legal counsel that the small school district three-year lock-in would still be applicable.

A question was posed about county office of education's (COE) and school districts' boundaries and which would report the charter schools' enrollment.

Later research was conducted by the OPSC which led to revisions to the instructions to Part A of the form. The revision clarified that the COE or school district filling out the Form SAB 50-01 would only report pupils for the grade level *or type* served by that entity.

The effective date of the law and the need to revise some previously submitted 50-01's were discussed. It was requested that if a district had already submitted its Form SAB 50-01 and did not have any charter schools, would it be required to submit the revised Form SAB 50-01.

It was later determined it would be possible for districts in that situation to submit a letter of certification.

A question was posed whether Part E was a necessary part of the form or was it 'transitional.'

Careful consideration was given to the question after the meeting, but that section of the form was deemed necessary.

Concerns were raised about altering the pupil reporting as now required by the law and the impact that would cause in the cohort survival enrollment projection system in the Form SAB 50-01.

Later revisions were made to the form and its instructions to capture the pupils for the current and three previous years for the pupils attending schools chartered by another district. If the district wishes to take advantage of the additional pupils, it is responsible for the research for the current year and is also free to research the previous years (note the form instructions now address the previous years' data if not known). As part of its reporting in Part A of the form, the district may also address pupils which it can no longer report because of its charter schools outside its boundaries; however, the district must submit a letter of explanation with its Form SAB 50-01 detailing the changes per grade level if previous years' data is altered.

Many expressed the desire for CDE to compile its charter school data in a user-friendly format and provide a Web link to this information. The CDE expressed its willingness to oblige this request if possible.

The CDE later met with the OPSC on this issue. The CDE will be providing this data on its Web site.

A comment was shared that districts will need to know the per grade level breakdown of the pupils attending schools chartered by another district in order to correctly fill out its Form SAB 50-01.

The instructions to Form SAB 50-01 were revised to reflect this, and this information was also shared with the CDE. Districts will be able to utilize the CDE's list on its Web site to identify the charter schools. Once the school name(s) are known, the per grade level breakdown is also available on the CDE Web site by pulling up that particular school's CBEDS Report data.

The OPSC will be alerting districts to these revised law requirements and the process impacts in its Advisory Actions newsletter.

The proposed regulations will be presented to the SAB at its January 2003 meeting on an emergency basis.

AB 14 – CHARTER SCHOOLS CSFA FINANCIAL SOUNDNESS PROPOSED REGULATIONS

Lara Larramendi-Blakely with the California School Finance Authority (CSFA) presented draft regulations regarding the financial soundness review. Ms. Larramendi-Blakely solicited public comments from both the committee members and the public for inclusion into the final regulations. The CSFA will be presenting the regulations to its Board on January 22, 2003 for approval.

AB 14 – CHARTER SCHOOLS PROPOSED SFP REGULATIONS

Dave Zian of the OPSC presented the item. The discussion focused mainly on the outstanding issues from the December meeting. Listed below are the significant issues discussed and the next actions agreed:

The intent of Regulation Section 1859.165(c) was discussed in detail. It was decided that this section should be removed from the regulations.

Concern was raised from members of the Committee and California Department of Education (CDE) that in cases where the facility is returned to the school district that the facility may not meet the district's need because the design of the Charter School may not be similar to that of a traditional school. The OPSC and CDE agreed to work together so that if the facility is returned to the school district it can be of use and generally be able to accommodate the number of pupils utilized to construct the project.

Jeff Rice with APLUS+ presented an alternative proposal regarding the criteria that the pupils attending the Charter School needed to receive Classroom Based Instruction. Given that the Education Code defines Classroom Based Instruction and no other public comment was received on the issue, no change was made to the regulations to incorporate that alternative proposal.

The definitions of large, medium, and small Charter Schools were clarified.

Assembly Bill 14 required that the other State entities involved in the school construction approval process [CDE, Department of Toxic Substance Control (DTSC), and the Division of the State Architect], review their approval processes and streamline any areas that could be. The CDE indicated that outreach and potentially streamlining application processes' including adding a specific staff member dedicated for Charter Schools. The DTSC and CDE also plan on conducting workshops and possibly preliminary site reviews together.

Jim Bush with CDE requested that OPSC review the possibility of providing advanced planning money to Charter Schools after the preliminary apportionment is made. The issue has been discussed with legal counsel and the statute does not provide the SAB the authority to do so.

The Non-Profit Entity definition was discussed in detail and whether a school district will meet that definition. The OPSC agreed to have legal counsel review the issue. Since the meeting an opinion has been obtained from legal counsel and a school district will not meet the definition of a Non-Profit Entity. In addition, in order for the 20 preference points to be obtain the Charter School must meet the definition of a Non-Profit Entity.

The proposed regulations will be presented to the SAB at its January 2003 meeting as emergency regulations.

AB 14 – INCREASED TOXIC SITE COSTS AND TOXIC EVALUATION AND RESPONSE FOR ADDITIONS TO EXISTING SITES

This issue was previously introduced at the December 2002 Committee meeting and was presented at this meeting. The primary discussion items are as follows:

The OPSC discussed with its legal counsel the one and one-half cap and whether that cap included or excluded items such as relocation and the “4%”. It was determined that the cap excluded these items and the current provisions to permit those costs, if warranted, would still apply.

Jim Bush posed the question whether these revisions would permit toxic remediation costs for modernization projects. The OPSC agreed to later meet with CDE to review the matter.

It was agreed that Section 1859.74.3(d)(2) would be revised to read, “Substantiation that the costs were limited to the minimum required to complete the evaluation and RA approved by the DTSC.”

The proposed regulations will be presented to the SAB at its January 2003 meeting as emergency regulations.

AB 1506 (WESSON) – PUBLIC WORKS LABOR COMPLIANCE

This presentation continued from the November and December 2002 Committee meetings. Listed below are the salient discussion items:

The proposed SFP regulatory changes were presented and discussed. These changes added certification language to the SFP application forms and most significantly, to the Form SAB 50-05, *Fund Release Authorization*.

The Chair reiterated that any options presented to the SAB for the implementation of AB 1506 would be required to be workable so that construction can continue and that the Proposition 47 fund releases would not be held up.

Districts with projects that are subject to AB 1506 are required to make this certification prior to receiving its SFP fund release for its impacted project(s). It was pointed out that if a district’s SFP funding occurred at the December 2002 or January 2003 SAB meetings and the district requests its fund release before the revised Form SAB 50-05 is available but then later issues its Notice to Proceed on or after April 1, 2003, the district is still subject to the requirements of this law.

Concerns were conveyed about the possible delay in construction that Department of Industrial Relations certification would cause, if that is a requirement.

A draft copy of the LCP guidebook was provided to the Committee and meeting attendees. Feedback, input and edits were welcomed.

The task of identifying the per-pupil grant increase has been more difficult due to the lack of historical data and given the wide range of variance such as district size and the size and duration of project. The Chair again encouraged and requested assistance from interested parties with knowledge in this area to submit per-pupil cost data to the OPSC.

Preliminary responses to several legal questions posed at the December Committee meeting were provided as follows:

- *If districts collect penalties under a DIR certified LCP, could the district retain those penalties or would they have to be returned to the State since they originated from State Bond funds?*
The district could retain those penalties as provided in law; the penalties would be collected from the contractor and would no longer be considered Bond funds.
- *Would a district be able to use of the increased per-pupil grant for district personnel to initiate and enforce a LCP or would those funds be considered “Force Account Labor” which is not reimbursable under the SFP?*
This does not appear to be a “Force Account Labor” issue because the project specific costs are not ongoing administration. Therefore, the grants could be used for district costs related to the LCP.
- *If the grant amounts for initiating and enforcing a LCP are later increased after impacted projects received a “full and final” apportionment, will those projects be prohibited from receiving benefit from the increased grants? The OPSC stated that it believed that AB 1506 includes an exclusion to the “full and final” section in law so that impacted projects could later received an increase, if warranted.*
This interpretation is correct.

- *Would the affected projects be based on construction work that starts on or after April 1, 2003, or based on the contract signature date as indicated in the OPSC proposal?*

The law indicates that the section shall apply to public works that commence on or after April 1, 2003. The section also specifically excludes design and preconstruction phases of construction, including but not limited to, inspection and land surveying work. This would indicate the Notice to Proceed might be a more appropriate indicator of when public works commence, and that will be the recommendation to the SAB.

- *Will charter schools be required to have a LCP for affected projects funded under the Proposition 47 Charter School Program?*

Yes, if the project commences construction on or after 4/1/03.

The proposed regulations will be presented to the SAB at its January 2003 meeting as emergency regulations. The issue of grant adjustments for LCP's will return to the February 2003 Implementation Committee meeting, and it is anticipated that proposed regulations to address the LCP costs will be developed for presentation to the March 2003 SAB meeting.

USE OF NEW CONSTRUCTION GRANTS

The OPSC prepared its proposal in response to unequivocal and longstanding concerns of the SAB regarding the Use of New Construction Grants. It was conveyed that the proposed regulations would be presented to the SAB on an emergency basis because of the seriousness of this issue and to address the 135 percent cap that was removed since priority points are no longer in effect. Several meeting attendees spoke on this issue and the Committee did not reach consensus. The OPSC proposal presented is summarized as follows:

A District may request Use of Grants under two circumstances:

1. A district may utilize grant eligibility determined at a different grade level other than the proposed project that does not exceed the capacity of the project, unless the project includes a request as indicated in number two below (see Section 1859.77.3(a)).
2. A district may request new construction grants that exceed the capacity of the project when requesting grants for a stand-alone project that does not include classrooms, to construct a multipurpose, gymnasium or library at an existing site that does not have an existing or adequate facility of the type being requested (see Section 1859.77.3(b)).
 - a) School sites that have been previously approved for new construction School Facility Program grants may not request this type of Use of Grants.

A "grandfathering" provision will allow approval of "Use of Grants" requests under Regulation Section 1859.77.2 as long as the plans and specifications for the project were accepted by the Division of the State Architect prior to September 1, 2002.

Feedback was received that the September 1, 2002 date included in the "grandfathering" provision was insufficient.

The Chair indicated that the OPSC was further reviewing the issue of "Use of Grants" for additions to existing school sites when the project included a small number of classrooms but also included a core facility such as multipurpose, gymnasium or library.

The proposed regulations will be presented to the SAB at its January 2003 meeting as emergency regulations.

NEXT MEETING

The next Implementation Committee meeting will be on Friday, February 7, 2003 at the US Bank Plaza in Sacramento, CA.

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February 7, 2003
IMPLEMENTATION COMMITTEE
MINUTES
U.S. Bank Plaza
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Jim Bush, CDE (First Part of Morning Only)
Kent Van Gelder, CDE (Later Part of Morning Only)
Dave Doomey, CASH
Gary Gibbs, CBIA
John Palmer, CASBO
Beth Hamby, LAUSD
Bill Cornelison, ACS
Dennis Dunston, CEFPI
Lenin Del Castillo, DOF
Dennis Bellet, DSA
Brian Wiese, AIA
Jay Hansen, SBCTC
Dave Walrath, SSDA (Alternate for Paul Hewitt)

Members Absent

Constantine Barranoff, SSD

The meeting on February 7, 2003 was called to order at 9:38 a.m., and there were 14 members present and 1 absent. The alternate representatives as noted above were introduced. The minutes from the January 7, 2003 meeting were accepted.

In response to inquiries, the Chair announced that the Use of New Construction Grants issue is anticipated to be presented to the March 7, 2003 Implementation Committee meeting. The Committee requested a status on its future item for Classroom Loading: Continuation High School and Community Schools. The Chair indicated that either a current status report or the actual issue paper would be presented to the March Committee meeting, as appropriate.

CRITICALLY OVERCROWDED SCHOOLS PROGRAM

Dave Zian, Lori Morgan, and T.J. Rapozo of the OPSC presented the item. Listed below are the salient discussion items and actions agreed:

Preliminary Apportionment Eligibility Criteria [d) Previous LPP, SFP Apportionments]

It was agreed to change the April 29, 2002 date contained in the proposal to November 5, 2002; allow districts with a previous *design only* apportionment for that project for which the application was accepted by the OPSC prior to November 5, 2002, to transition into the COS Program.

Preliminary Apportionment Fund Releases [a) Advance Fund Releases-Planning and Site]

The OPSC staff conveyed the findings of its Legal Counsel that advance fund releases are not permissible under the law for the COS Program, and that the current regulations are appropriate. Staff opposes providing advance fund releases on the primary grounds that is could result in inappropriate apportionments. As an alternative, staff is currently working closely with the State Treasurer's Office that has indicated their willingness to provide interim financing at attractive rates for districts with approved COS projects. It is anticipated that a report will be presented to the SAB in the near future detailing this opportunity.

It was also requested that the OPSC confer again with its Legal Counsel on the issue of qualifying or converting preliminary apportionments to final apportionments in "phases" as a possible alternative to enable access to actual funds.

CRITICALLY OVERCROWDED SCHOOLS PROGRAM (cont.)***Conversion of Preliminary Apportionment [c] SFP Criteria]***

As per the current regulations, a COS project preparing to convert to final apportionment is *not* required to re-justify the project under the COS Program criteria; the project must meet the SFP criteria for funding, as would any SFP project.

In-depth discussion occurred regarding the current requirements that a final apportionment request must have at least 75 percent of the pupils contained in the initial application. As a result, it was agreed to recommend regulation amendments to permit a district to use its remaining SFP eligibility if it no longer had at least 75 percent.

The proposed regulations will be presented to the SAB at its February 2003 meeting on an emergency basis.

Other Issues Discussed

Beyond the current law, the broader topic of overcrowding versus growth was introduced at the Committee meeting. It was acknowledged that this discussion could not impact the current programs administered by the SAB absent legislative remedy. The audience members requested a separate future meeting on this topic, which the Chair and OPSC agreed to help facilitate with the appropriate State entities, CASH and the impacted districts.

AB 1506 (WESSON) – GRANT INCREASE

Presentations of AB 1506 labor compliance program (LCP) issues have occurred at the November and December 2002 and January 2003 Committee meetings. At those meetings, the grant increases due to LCP's were briefly discussed and numerous requests for cost data were made. Based on the limited information submitted to date, an issue paper was presented to the Committee at its February meeting, and the salient discussion items are as follows:

Based on the preliminary information available, LCP costs are comprised of three areas: Initiation (start-up), monitoring and enforcement. Based on cost information received from two sources, estimates for new construction and modernization were presented (see Attachment). No data is available to date for enforcement costs.

It is anticipated that the vast majority of projects will not have any hearing and legal defense costs. It is questioned whether it would be appropriate to capture an amount, if any, into the per-pupil amount for these unlikely costs. A Committee member suggested the possibility of insurance or bonding for these legal enforcement costs, and that the insurance coverage costs would be attainable.

Several suggestions were offered to proceed with the per-pupil increases based on the best information available and then monitor the LCP costs for a year with the possibility of future adjustments, if warranted.

The Chair reiterated the request for assistance from interested parties with knowledge in this area and that districts conduct cost research to submit per-pupil cost data to the OPSC immediately.

The draft copy of the LCP guidebook from the AB 1506 workgroup was provided to the Department of Industrial Relations (DIR), who has completed and will be issuing the guidebook. It is anticipated that the DIR will have the guidebook available to the districts in the next week or so.

Discussion regarding per-pupil grant adjustments to address the LCP costs will return to the March and possibly to the April 2003 Implementation Committee meetings. Presuming regulations could be presented on an emergency basis, these proposed regulations must be presented to the SAB no later than the May 2003 SAB meeting to meet the time requirements set in law. However, it is the OPSC's goal to present the proposed regulations to the SAB as soon as possible.

ADJOURNMENT AND NEXT MEETING

The meeting continued through the typical lunch period and adjourned at approximately 1:00 pm. The next Implementation Committee meeting will be on Friday, March 7, 2003 at the US Bank Plaza in Sacramento, CA.

ATTACHMENT

State Allocation Board Implementation Committee Meeting Minutes February 7, 2003

Implementation of AB 1506 Grant Adjustments for Labor Compliance Programs

NEW CONSTRUCTION PROJECTS

Using Estimate Number 1								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 1	Per Pupil	State Share	% of const cost
HS Addition	\$16,500,000	63,000	18 months	540	\$82,875	\$153.47	\$76.74	0.50%
New Elem	\$15,000,000	65,000	16 months	900	\$75,225	\$83.58	\$41.79	0.50%
New High School	\$17,000,000	85,000	18 months	1,200	\$85,000	\$70.83	\$35.42	0.50%
New Middle School	\$25,000,000	150,000	35 months	1,500	\$102,000	\$68.00	\$34.00	0.41%
New High School	\$75,000,000	325,000	37 months	3,500	\$297,500	\$85.00	\$42.50	0.40%

Using Estimate Number 2								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 2	Per Pupil		
HS Addition	\$16,500,000	63,000	18 months	540	\$60,320	\$111.70	\$55.85	0.37%
New Elem	\$15,000,000	65,000	16 months	900	\$55,840	\$62.04	\$31.02	0.37%
New High School	\$17,000,000	85,000	18 months	1,200	\$60,320	\$50.27	\$25.13	0.35%
New Middle School	\$25,000,000	150,000	35 months	1,500	\$137,600	\$91.73	\$45.87	0.55%
New High School	\$75,000,000	325,000	37 months	3,500	\$351,520	\$100.43	\$50.22	0.47%

Estimate No. 1 Written estimate using 'not to exceed' figures. The basic hourly rate used was \$85. The firm also proposed a 'start up' fee of 0.15% per project. This was not added in to the estimates because used hours, if any, were to be applied to the fee. Thus, there may be an additional amount above the not to exceed amount in some cases.

Estimate No. 2 For the first \$10 million in contract cost, and for each additional \$10 million of cost: 8 hr of inspection at \$80 and 8 hrs of accounting at \$60. The consultant also advised a 'start up' cost of from \$10 to \$20 thousand per project. \$20 thousand was added to each of the estimates above.

ATTACHMENT

State Allocation Board Implementation Committee Meeting Minutes February 7, 2003

Implementation of AB 1506 Grant Adjustments for Labor Compliance Programs

MODERNIZATION PROJECTS

Using Estimate Number 1								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 1	Per Pupil	State Share	% of const cost
A* Intermediate	\$5,600,000	72,408		992	\$39,747	\$40.07	\$24.04	0.71%
BV High	\$2,000,000	28,199		405	\$15,479	\$38.22	\$22.93	0.77%
C High	\$1,200,000	21,189		237	\$11,631	\$49.08	\$29.45	0.97%
H Elem	\$1,900,000	24,477		531	\$13,436	\$25.30	\$15.18	0.71%
R Elem	\$2,400,000	29,784		475	\$16,349	\$34.42	\$20.65	0.68%
S Elem	\$2,400,000	35,310		744	\$19,383	\$26.05	\$15.63	0.81%
Totals	\$15,500,000	211,367		3,384	\$116,025	\$34.29	\$20.57	0.75%

Using Estimate Number 2								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 2	Per Pupil	State Share	% of const cost
A* Intermediate	\$5,600,000	72,408		992	\$50,320	\$50.73	\$30.44	0.90%
BV High	\$2,000,000	28,199		405	\$23,440	\$57.88	\$34.73	1.17%
C High	\$1,200,000	21,189		237	\$23,440	\$98.90	\$59.34	1.95%
H Elem	\$1,900,000	24,477		531	\$23,440	\$44.14	\$26.49	1.23%
R Elem	\$2,400,000	29,784		475	\$30,160	\$63.49	\$38.10	1.26%
S Elem	\$2,400,000	35,310		744	\$30,160	\$40.54	\$24.32	1.26%
Totals	\$15,500,000	211,367		3,384	\$117,520	\$34.73	\$20.84	0.76%

Estimate No. 1 Written estimate using 'not to exceed' figures. The basic hourly rate used was \$85. The firm also proposed a 'start up' fee of 0.15% per project. This was not added in to the estimates because used hours, if any, were to be applied to the fee. Thus, there may be an additional amount above the not to exceed amount in some cases. In this estimate, the firm gave a quote for all the projects as a single contract. This quote was prorated here for the purpose of the discussion.

Estimate No. 2 For the first \$10 million in contract cost, and for each additional \$10 million of cost: 8 hr of inspection at \$80 and 8 hrs of accounting at \$60. The consultant also advised a 'start up' cost of from \$10 to \$20 thousand per project. \$10 thousand was added to each of the estimates above.

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March 7, 2003
IMPLEMENTATION COMMITTEE
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U.S. Bank Plaza
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Jim Bush, CDE
Dave Doomey, CASH
Gary Gibbs, CBIA
John Palmer, CASBO
Mark DeMan, LAUSD (Alternate for Beth Hamby)
Bill Cornelison, ACS
Dennis Dunston, CEFPI
Walt Schaff, DOF (Morning Only)
Lenin Del Castillo, DOF
Constantine Barranoff, SSD
Dave Walrath, SSDA (Temporary Alternate for SSDA)

Members Absent

Jay Hansen, SBCTC
Brian Wiese, AIA
Dennis Bellet, DSA

The meeting on March 7, 2003 was called to order at 9:35 a.m.; there were 13 members present and 3 absent. The alternate representatives as noted above were introduced. The Chair announced that Paul Hewitt resigned from the SAB Implementation Committee as the Small School District Association (SSDA) representative. Dave Walrath attended the March 7th Committee meeting to represent the SSDA; more information regarding the SSDA representative will follow. The minutes from the February 7, 2003 meeting were accepted.

The Chair reported on the status of the Classroom Loading: Continuation High School and Community Schools Report, and that an item on this issue would be presented at the April 2003 Committee meeting.

AB 1506 (WESSON) – GRANT INCREASE

Presentations of AB 1506 labor compliance program (LCP) issues have occurred at the November and December 2002, as well as the January, February and March 2003 Committee meetings. Discussions regarding the grant increases due to LCP's occurred primarily at the February and March Committee meetings. A summary of the March Committee discussion items is as follows:

- LCP costs are comprised of three areas: Initiation (start-up), monitoring and enforcement. Based on cost information received from Ernie Silva, Consultant for the California Community College Coalition; Jay Bell, Parsons Brinckerhoff Construction Service, Inc.; Ted Rozzi, Corona-Norco Unified School District; and Chad Cheatham, CQC Enterprises estimates for new construction and modernization were presented (see Attachments).
- Suggestions were made to raise the minimum cost beyond the current proposed \$10,000 with an emphasis on the needs of small school districts or one-project districts. A suggestion was made to model the percentage factor on the Community College high percentage factor rather than the low. Walt Schaff of the Department of Finance shared DOF's concern that the requirements of the law regarding prevailing wage had not changed and that the AB 1506 grant increases should be proportionate to only the new duties required of school districts.
- It is anticipated that the vast majority of projects will not have any hearing and legal defense costs. It is likely that after a district holds an informal conference to hear any possible mitigating circumstances, the district would forward violations to the DIR for the hearing process. Members and the audience again questioned the need to capture any amount into the per-pupil amount for these unlikely costs. At a previous Committee meeting, a Committee member suggested the possibility of insurance or bonding for these legal enforcement costs. Staff reported that to date, a cost for these services has not been attainable.

AB 1506 (WESSON) – GRANT INCREASE (cont.)

- The OPSC will proceed with developing a mechanism to process additional apportionments to those projects that qualify for the grant increase, and with developing an audit procedure so districts can set up their projects to properly account for items that staff will want to see at the project audit.
- A question was raised if Prop 47 funds could be reserved to ensure funding availability for the increase for those projects subject to AB 1506.
- Agreement was made that a review of the data will occur after approximately a year. If any change is warranted, it would be prospective and the past apportionments would not be readdressed.

Discussion regarding per-pupil grant adjustments to address the LCP costs will return to the April 2003 Implementation Committee meeting. Presuming regulations could be presented on an emergency basis, these proposed regulations must be presented to the SAB no later than the May 2003 SAB meeting to meet the time requirements set in law. It is the OPSC's goal to present the proposed regulations to the SAB as soon as possible.

USE OF NEW CONSTRUCTION GRANTS

In response to unequivocal and longstanding concerns of the SAB, the Committee discussed "Use of Grants" in October and November 2002 as well as in January 2003; however, consensus was not reached. Proposed emergency regulations were presented to the SAB at its January 2003 meeting. The SAB delayed action in January on adopting any long-term "Use of Grants" regulations and approved provisions for those districts that had planned projects based on the "Use of Grants" regulations if certain criteria are met as follows:

- The project plans were accepted by the Division of the State Architect prior to January 23, 2003.
- The project does not exceed 135 percent of the capacity of the project.
- The district does not utilize multi-track year-round education (MTYRE) as a method to house its pupils used for the grant.

The Board requested staff to return the "Use of Grants" item to the Committee to develop further "Use of Grants" regulation recommendations. A summary of the March Committee discussion items is as follows:

- Many comments were shared that the proposed acceptable housing plans were too limiting and that MTYRE (or at least freezing MTYRE levels) and higher district classroom loading standards should be included. Staff shared its concern that the SAB had addressed the MTYRE housing plan issue at the January 2003 SAB.
- The proposal includes stand-alone projects and projects that include no more than eight classrooms that include a multipurpose, gymnasium and/or library projects, where none existed previously or is inadequate. Must be an existing school site that was not built under the SFP. Districts can apply when the existing school site that was not built under the SFP but had later addition(s) under the SFP, provided that the total number of classrooms added through the SFP does not exceed eight (including the current project).
- When calculating the adequacy of an existing multipurpose, gymnasium, or library, utilize the existing capacity plus the Net School building Capacity of the current proposed project.
- The proposal includes "grandfathering" provisions as follows:
 - Permit requests under Regulation Section 1859.77.2, as amended by the SAB on January 22, 2003, as long as the project plans and specifications were accepted by the DSA prior to January 23, 2003.
 - Include provisions to permit "Use of Grants" requests for excess pupil grants where clear language was included in the local bond that specifically identified the project that the district planned based on the "Use of Grants" regulations in place at that time of the bond election.

Discussion regarding the Use of Grants will return to the April 2003 Implementation Committee meeting. It is anticipated that staff will present proposed regulations to the SAB at its April or May 2003 meeting as emergency regulations.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at approximately 3:30 pm. The next Implementation Committee meeting will be on Friday, April 4, 2003 at the US Bank Plaza in Sacramento, CA.

ATTACHMENT
State Allocation Board Implementation Committee
March 7, 2003

Total Project increase for AB 1506

Total Project Cost	factor	low	max	State at 50/50	State at 80/20	State at 60/40
\$1 to \$1, 999,999	1.6	\$10,000	\$32,000	16,000	\$25,600	\$19,200
\$2m to 2,999,999	1.15	\$23,000	\$34,500	17,250	\$27,600	\$20,700
\$3m to \$3,999,999	0.9	\$27,000	\$36,000	18,000	\$28,800	\$21,600
\$4m to 7,999,999	0.61	\$24,400	\$48,800	24,400	\$39,040	\$29,280
\$8m to 9,999,999	0.55	\$44,000	\$55,000	27,500	\$44,000	\$33,000
\$10m to 14,999,999	0.52	\$52,000	\$78,000	39,000	\$62,400	\$46,800
\$15m to \$19,999,999	0.5	\$75,000	\$100,000	50,000	\$80,000	\$60,000
Over \$20m to 100m	0.45	\$90,000	\$450,000	225,000	\$360,000	\$270,000
over \$100 million	0.4					

Notes:

1. The calculation in any category shall not result in an amount less than the maximum in the preceeding level.
2. The minimum for any project shall be \$10,000

ATTACHMENT
State Allocation Board Implementation Committee
March 7, 2003

AB 1506 Grant Adjustments Using Community College Scale

Grade Level	Classrooms	Grants	Total Project Cost	Const Cost (est)**	1506 Amt	% of Total Project Cost	Per Pupil Adjustment	State	Dist
New Construction 50/50									
sdh-hs	2	11	\$488,812	\$391,050	\$7,782	1.59	\$707.44	\$353.72	\$353.72
hs	4	51	\$1,030,964	\$824,771	\$16,413	1.59	\$321.82	\$160.91	\$160.91
elem	8	200	\$2,592,864	\$2,074,291	\$29,870	1.15	\$149.35	\$74.67	\$74.67
Cont hs	13	108	\$2,801,568	\$2,241,254	\$32,274	1.15	\$298.83	\$149.42	\$149.42
hs	5	135	\$3,864,028	\$3,091,222	\$30,912	0.80	\$228.98	\$114.49	\$114.49
elem	14	510	\$7,537,828	\$6,030,262	\$45,830	0.61	\$89.86	\$44.93	\$44.93
elem	27	675	\$10,029,674	\$8,023,739	\$55,364	0.55	\$82.02	\$41.01	\$41.01
elem	35	987	\$13,636,864	\$10,909,491	\$74,185	0.54	\$75.16	\$37.58	\$37.58
elem	53	1365	\$22,204,060	\$17,763,248	\$111,908	0.50	\$81.98	\$40.99	\$40.99
hs	84	2948	\$113,694,407	\$90,955,526	\$518,446	0.46	\$175.86	\$87.93	\$87.93
Modernization 80/20									
elem		50	\$241,788	\$193,430	\$3,849	1.59	\$76.99	\$61.59	\$15.40
elem		150	\$537,444	\$429,955	\$8,556	1.59	\$57.04	\$45.63	\$11.41
elem		123	\$641,098	\$512,878	\$10,206	1.59	\$82.98	\$66.38	\$16.60
elem		250	\$795,354	\$636,283	\$12,662	1.59	\$50.65	\$40.52	\$10.13
elem		202	\$835,489	\$668,391	\$13,301	1.59	\$65.85	\$52.68	\$13.17
elem		450	\$1,542,831	\$1,234,265	\$23,821	1.54	\$52.94	\$42.35	\$10.59
hs		578	\$2,546,566	\$2,037,253	\$29,336	1.15	\$50.76	\$40.60	\$10.15
elem		579	\$2,621,607	\$2,097,286	\$30,201	1.15	\$52.16	\$41.73	\$10.43
jhs		868	\$3,087,558	\$2,470,046	\$35,569	1.15	\$40.98	\$32.78	\$8.20
hs		1255	\$7,527,532	\$6,022,026	\$43,359	0.58	\$34.55	\$27.64	\$6.91
Modernization 60/40									
elem		50	\$241,788	\$193,430	\$3,849	1.59	\$76.99	\$46.19	\$30.79
elem		150	\$537,444	\$429,955	\$8,556	1.59	\$57.04	\$34.22	\$22.82
elem		123	\$641,098	\$512,878	\$10,206	1.59	\$82.98	\$49.79	\$33.19
elem		250	\$795,354	\$636,283	\$12,662	1.59	\$50.65	\$30.39	\$20.26
elem		202	\$835,489	\$668,391	\$13,301	1.59	\$65.85	\$39.51	\$26.34
elem		450	\$1,542,831	\$1,234,265	\$23,821	1.54	\$52.94	\$31.76	\$21.17
hs		578	\$2,546,566	\$2,037,253	\$29,336	1.15	\$50.76	\$30.45	\$20.30
elem		579	\$2,621,607	\$2,097,286	\$30,201	1.15	\$52.16	\$31.30	\$20.86
jhs		868	\$3,087,558	\$2,470,046	\$35,569	1.15	\$40.98	\$24.59	\$16.39
hs		1255	\$7,527,532	\$6,022,026	\$43,359	0.58	\$34.55	\$20.73	\$13.82

** Assumed to be 80% of the Total Project Cost

NEW CONSTRUCTION PROJECTS

Using Estimate Number 1								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 1	Per Pupil	State Share	% of const cost
HS Addition	\$16,500,000	63,000	18 months	540	\$82,875	\$153.47	\$76.74	0.50%
New Elem	\$15,000,000	65,000	16 months	900	\$75,225	\$83.58	\$41.79	0.50%
New High School	\$17,000,000	85,000	18 months	1,200	\$85,000	\$70.83	\$35.42	0.50%
New Middle School	\$25,000,000	150,000	35 months	1,500	\$102,000	\$68.00	\$34.00	0.41%
New High School	\$75,000,000	325,000	37 months	3,500	\$297,500	\$85.00	\$42.50	0.40%

Using Estimate Number 2								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 2	Per Pupil		
HS Addition	\$16,500,000	63,000	18 months	540	\$60,320	\$111.70	\$55.85	0.37%
New Elem	\$15,000,000	65,000	16 months	900	\$55,840	\$62.04	\$31.02	0.37%
New High School	\$17,000,000	85,000	18 months	1,200	\$60,320	\$50.27	\$25.13	0.35%
New Middle School	\$25,000,000	150,000	35 months	1,500	\$137,600	\$91.73	\$45.87	0.55%
New High School	\$75,000,000	325,000	37 months	3,500	\$351,520	\$100.43	\$50.22	0.47%

Estimate No. 1 Written estimate using 'not to exceed' figures. The basic hourly rate used was \$85. The firm also proposed a 'start up' fee of 0.15% per project. This was not added in to the estimates because used hours, if any, were to be applied to the fee. Thus, there may be an additional amount above the not to exceed amount in some cases.

Estimate No. 2 For the first \$10 million in contract cost, and for each additional \$10 million of cost: 8 hr of inspection at \$80 and 8 hrs of accounting at \$60. The consultant also advised a 'start up' cost of from \$10 to \$20 thousand per project. \$20 thousand was added to each of the estimates above.

MODERNIZATION PROJECTS

Using Estimate Number 1								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 1	Per Pupil	State Share	% of const cost
A* Intermediate	\$5,600,000	72,408		992	\$39,747	\$40.07	\$24.04	0.71%
BV High	\$2,000,000	28,199		405	\$15,479	\$38.22	\$22.93	0.77%
C High	\$1,200,000	21,189		237	\$11,631	\$49.08	\$29.45	0.97%
H Elem	\$1,900,000	24,477		531	\$13,436	\$25.30	\$15.18	0.71%
R Elem	\$2,400,000	29,784		475	\$16,349	\$34.42	\$20.65	0.68%
S Elem	\$2,400,000	35,310		744	\$19,383	\$26.05	\$15.63	0.81%
Totals	\$15,500,000	211,367		3,384	\$116,025	\$34.29	\$20.57	0.75%

Using Estimate Number 2								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 2	Per Pupil	State Share	% of const cost
A* Intermediate	\$5,600,000	72,408		992	\$50,320	\$50.73	\$30.44	0.90%
BV High	\$2,000,000	28,199		405	\$23,440	\$57.88	\$34.73	1.17%
C High	\$1,200,000	21,189		237	\$23,440	\$98.90	\$59.34	1.95%
H Elem	\$1,900,000	24,477		531	\$23,440	\$44.14	\$26.49	1.23%
R Elem	\$2,400,000	29,784		475	\$30,160	\$63.49	\$38.10	1.26%
S Elem	\$2,400,000	35,310		744	\$30,160	\$40.54	\$24.32	1.26%
Totals	\$15,500,000	211,367		3,384	\$180,960	\$53.48	\$32.09	1.17%

Estimate No. 1 Written estimate using 'not to exceed' figures. The basic hourly rate used was \$85. The firm also proposed a 'start up' fee of 0.15% per project. This was not added in to the estimates because used hours, if any, were to be applied to the fee. Thus, there may be an additional amount above the not to exceed amount in some cases. In this estimate, the firm gave a quote for all the projects as a single contract. This quote was prorated here for the purpose of the discussion.

Estimate No. 2 For the first \$10 million in contract cost, and for each additional \$10 million of cost: 8 hr of inspection at \$80 and 8 hrs of accounting at \$60. The consultant also advised a 'start up' cost of from \$10 to \$20 thousand per project. \$10 thousand was added to each of the estimates above.

ATTACHMENT
Vista Est.
State Allocation Board Implementation Committee
March 7, 2003

LABOR COMPLIANCE ESTIMATES #3

NEW CONSTRUCTION PROJECTS

Using Estimate Number 3								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 1	Per Pupil	State Share	% of const cost
HS	\$11,000,000		24		\$41,250		\$0.00	0.38%
Oak Elem	\$9,800,000		15		\$25,212		\$0.00	0.26%
Marilyn Elem	\$9,800,000		15		\$25,608		\$0.00	0.26%
Totals	\$30,600,000	0		0	\$92,070		\$0.00	0.30%

MODERNIZATION PROJECTS

Using Estimate Number 1								
Project	Cost	Sq. Ft.	Duration	Capacity	Estimate 1	Per Pupil	State Share	% of const cost
Acacemy	\$100,000		4		\$6,512		\$0.00	6.51%
Elem	\$1,100,000		4		\$6,512		\$0.00	0.59%
Elem	\$1,100,000		4		\$6,512		\$0.00	0.59%
Elem	\$700,000		4		\$6,512		\$0.00	0.93%
Casita Center	\$2,500,000		12		\$20,031		\$0.00	0.80%
Lincoln Middle	\$1,100,000		4		\$6,512		\$0.00	0.59%
** Ave	\$1,000,000		12		\$20,031		\$0.00	2.00%
Totals	\$7,600,000	0		0	\$116,025		\$0.00	1.53%

Fee Schedule for California Community Colleges

Worksheet for estimating the cost per project if your district/agency uses WCS-FCCC for LCP phase II (Implementation/monitoring)

Insert your construction budget below

Estimated fee for your project

Project Construction Cost	Fee % Low**	Fee % High**	Construction Budget	Fee(based on Fee% low)***
Fee range for less than \$1 mil project	1.99%	2.34%	\$500,000	\$9,950
Fee range for \$1 to \$2 mil project	1.93%	2.27%	\$ -	\$ -
Fee range for \$2 to \$3 mil project	1.44%	1.70%	\$ -	\$ -
Fee range for \$3 to \$4 mil project	1.00%	1.18%	\$ -	\$ -
Fee range for \$4 to \$5 mil project	0.86%	1.01%	\$ -	\$ -
Fee range for \$5 to \$6 mil project	0.76%	0.90%	\$ -	\$ -
Fee range for \$6 to \$7 mil project	0.72%	0.85%	\$ -	\$ -
Fee range for \$7 to \$8 mil project	0.71%	0.84%	\$ -	\$ -
Fee range for \$8 to \$9 mil project	0.69%	0.81%	\$ -	\$ -
Fee range for \$9 to \$10 mil project	0.68%	0.81%	\$ -	\$ -
Fee range for \$10 to \$11 mil project	0.68%	0.80%	\$ -	\$ -
Fee range for \$11 to \$12 mil project	0.68%	0.80%	\$ -	\$ -
Fee range for \$12 to \$13 mil project	0.67%	0.78%	\$ -	\$ -
Fee range for \$13 to \$14 mil project	0.65%	0.77%	\$ -	\$ -
Fee range for \$14 to \$15 mil project	0.64%	0.76%	\$ -	\$ -
Fee range for \$15 to \$16 mil project	0.64%	0.75%	\$ -	\$ -
Fee range for \$16 to \$17 mil project	0.63%	0.74%	\$ -	\$ -
Fee range for \$17 to \$18 mil project	0.62%	0.73%	\$ -	\$ -
Fee range for \$18 to \$19 mil project	0.62%	0.73%	\$ -	\$ -
Fee range for \$19 to \$20 mil project	0.61%	0.72%	\$ -	\$ -
Fee range for \$20 to \$22 mil project	0.61%	0.71%	\$ -	\$ -
Fee range for projects \$22 mil and over	0.57%	0.64%	\$ -	\$ -

*Please note for projects less than \$1 mil, project fee shall be a minimum of \$1,000 per month for the life of the project.

**Please note all Enforcement services are not included in this percentage fee and shall be invoiced on an hourly basis, as the enforcement is an intangible service and can not be quantified FCCC will be working with additional 3rd party vendors to guarantee quality and pricing for these services as well.

***Please note, the fee % low is based off the assumption that FCCC-WCS has 5 projects for Phase II per 6 region in California. If this criteria is not met, the fee % will be between fee % low and fee % high. We anticipate that in all likelihood, we will meet this requirement and thus will be able to offer the lower fee.

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

<http://www.dgs.ca.gov/opsc>



April 4, 2003
IMPLEMENTATION COMMITTEE
MINUTES
U.S. Bank Plaza
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Jim Bush, CDE
Dave Doomey, CASH
Gary Gibbs, CBIA
John Palmer, CASBO
Beth Hamby, LAUSD
Bill Cornelison, ACS
Dennis Dunston, CEFPI
Walt Schaff, DOF (Morning Only)
Lenin Del Castillo, DOF (Morning Only)
Mamie Starr, SSD (Alternate for C. Barranoff)
Dave Walrath, SSDA (Temporary Alternate for SSDA)
Jay Hansen, SBCTC (Morning Only)

Members Absent

Brian Wiese, AIA
Dennis Bellet, DSA

The meeting on April 4, 2003 was called to order at 9:35 a.m.; there were 14 members present and 2 absent. The alternate representatives as noted above were introduced. The minutes from the March 7, 2003 meeting were accepted.

The Chair announced that beginning in May, the Implementation Committee meetings shall now be at a new location; CDE Building at 1430 N Street, Board Room. Attendees must bring picture identification and check in at the security desk.

SB 575 GRANT SURVEY – FIRE DETECTION

A provision in Senate Bill 575 requires the SAB to review, prior to July 1, 2003, the adequacy of the per pupil grant adjustments and determine if these adjustments are sufficient. To assist staff in reviewing the adequacy of grants for both new construction and modernization, the OPSC developed a survey, which will be mailed to districts that have received funding under these new fire code provisions to request the cost and square footage of projects that have been successfully bid. Staff solicited comments from Committee members and various stakeholders on the proposed survey and will incorporate the suggestions as appropriate.

AB 1506 (WESSON) – GRANT INCREASE

Presentations of AB 1506 labor compliance program (LCP) issues have occurred at the November and December 2002, as well as the January through April 2003 Committee meetings. Discussions regarding the grant increases due to LCP's occurred primarily since the February Committee meeting. A summary of the April Committee discussion items is as follows:

LCP costs are comprised of three areas: Initiation (start-up), monitoring and enforcement. Based on cost information received from Ernie Silva, Consultant for the California Community College Coalition; Jay Bell, Parsons Brinckerhoff Construction Service, Inc.; Ted Rozzi, Corona-Norco Unified School District; and Chad Cheatham, CQC Enterprises, estimates for new construction and modernization were used to develop the proposed SFP grant increases as shown on the Attachment. The proposal represents the 100 percent costs, and the State share is 50 percent of the amount for new construction projects, and 60 percent or 80 percent as appropriate for modernization.

The OPSC will proceed with developing a mechanism to process additional apportionments to those projects that qualify for the grant increase.

AB 1506 (WESSON) – GRANT INCREASE (cont.)

A draft SFP audit procedure was presented, so districts have information to set up their projects to properly account for items that staff will want to see at the project audit.

The first construction contract Notice to Proceed triggers whether the project is subject to AB 1506.

Agreement was made that a review of the data will occur after approximately a year. At that time, information based on actual experience in districts can be used to recommend an increase or a decrease in the additional per pupil grant for future apportionments. If any change is warranted, it would be prospective and the past apportionments would not be readdressed.

Walt Schaff of the Department of Finance shared DOF's concern that the requirements of the law regarding prevailing wage had not changed and that the AB 1506 grant increases should be proportionate to only the new duties required of school districts. He also indicated concern regarding the level of review required by law and that those details seem to be lacking in the DIR approved LCP's. The DOF indicated its support for the proposal's presentation at the April SAB given the districts' need for resolution on this matter and considering the Committee's commitments to later review the costs in approximately one year.

The Chair agreed to advise the Board of some concerns expressed at the meetings held on this subject. School district representatives expressed the belief that the actual enforcement of labor code violations could lead to expensive legal and litigation costs, which are not anticipated in the proposal. Additionally, representatives of the DOF pointed out that there is not a clear model of the minimum required to implement and enforce a LCP. Thus, the proposal could be based on the assumption that more work will be done than is actually required, thereby inflating the cost and the amount of the additional per pupil grant. Staff acknowledges the possible validity of both comments. Given the urgency to adopt regulations by July 1, 2003, and given the very sparse data available at this moment, the Committee and Staff agreed the proposed regulations should be presented to the SAB now, and that the amount of the per pupil grant should be revisited in approximately one year.

These proposed regulations will be presented at the April SAB meeting, but no later than the May 2003 SAB meeting to meet the time requirements set in law. It is the OPSC's goal to present the proposed regulations to the SAB as soon as possible. The draft April SAB item will be posted on the OPSC Web site by Thursday, April 17th.

USE OF NEW CONSTRUCTION GRANTS

The Committee discussed "Use of Grants" in October and November 2002 as well as in January 2003; however, consensus was not reached. Proposed emergency regulations were presented to the SAB at its January 2003 meeting. The SAB delayed action in January on adopting any long-term "Use of Grants" regulations and approved provisions for those districts that had planned projects based on the "Use of Grants" regulations if certain criteria are met as follows:

The project plans were accepted by the Division of the State Architect prior to January 23, 2003.

The project does not exceed 135 percent of the capacity of the project.

The district does not utilize multi-track year-round education (MTYRE) as a method to house its pupils used for the grant.

The Board requested staff to return the "Use of Grants" item to the Committee to develop further "Use of Grants" regulation recommendations. Staff discussed the "Use of Grants" at the March and April 2003 SAB Implementation Committee meetings, which resulted in several modifications that address SAB concerns and provide more flexibility for the districts than the January 2003 proposal. In alignment with those revisions, the OPSC recommends that a district may request "Use of Grants" as follows:

1. A district may request grant eligibility determined at a grade level other than the proposed project that does not exceed the capacity of the project, unless the project includes a request as indicated in number two below.
2. A district may request new construction grants that exceed the capacity of the project when the project includes no more than eight classrooms and is to construct a multipurpose, gymnasium and/or library at an existing site that does not have an existing or adequate facility of the type being requested. Inadequate facilities are defined as being less than 60 percent of the area needed, as specified in the SFP Regulations. Districts are ineligible for

USE OF NEW CONSTRUCTION GRANTS (cont.)

these grants if the school, where the addition is proposed, had been built as a new school under the SFP. The amount of the excess pupil grants requested are limited to no more than the pupils commensurate to the grants necessary to construct the size multipurpose, gymnasium and/or library needed, as defined in the SFP Regulations.

3. Beyond the “grandfathering” provision approved by the SAB for projects with plans accepted by the DSA prior to January 23, 2003, staff recommends provisions to permit “Use of Grants” for excess pupil grants where language was included in the local bond that specifically identified the project planned by the district and was based on the “Use of Grants” Regulation Sections 1859.77.2 or 1859.77.3 in place at that time of the bond election.
4. Acceptable housing plans have been defined in the proposed regulations that address the Board’s concerns yet provide parameters and some flexibility for the districts. Staff recommends that the required resolution and housing plan be discussed and approved at a public hearing at a regularly scheduled meeting of the district’s governing board on a date preceding the application filing. Staff also recommends that the regulations be amended to permit the districts to certify compliance and that these documents be available upon the OPSC project audit.

The Use of Grants proposed regulations will be presented to the SAB at its April 2003 meeting as emergency regulations. The draft April SAB item will be posted on the OPSC Web site by Thursday, April 17th.

COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS

In March 2003, the OPSC released the *Review of the Funding Methods for Continuation High, Community Day and County Community Schools* report on behalf of the Department of General Services (DGS). This report was in response to Assembly Bill 695, Education Code Section (ECS) 17072.17, which directed the DGS, in conjunction with the CDE, the DOF, and the Legislative Analyst’s Office, to review the method of funding the construction and modernization of school facilities for the alternative education programs; Continuation High, Community Day, County Community, and County Community Day Schools. The law also provided that modifications be made to the current method of school facility funding for alternative education schools, as deemed appropriate.

Based upon survey results, the analysis of current SFP projects, and input from the Adhoc Committee members and CDE, staff has developed recommendations regarding the appropriate classroom loading and funding methodologies for these alternative education schools as follows:

Consider changing the classroom loading standards for Alternative Education Schools from 27/25 pupils to 18 pupils.

Consider developing a new school allowance and small school allowance for these Alternative Education Schools.

Consider community day, county community, and county community day schools’ capital outlay facility needs the same for purposes of State funding.

Input was received at the Implementation Committee meeting regarding the proposal and funding example. Discussion regarding this issue will return to the May 2003 Implementation Committee meeting.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at approximately 3:00 pm. The next Implementation Committee meeting will be on Friday, May 2, 2003 at the new location; CDE Building at 1430 N Street, Board Room in Sacramento, CA. Attendees must bring picture identification and check in at the security desk.

ATTACHMENT
State Allocation Board Implementation Committee
April 4, 2003 Minutes

Total Project increase for AB 1506

Total Project Cost	factor	low	max	State at 50/50	State at 80/20	State at 60/40
\$1 to \$1, 999,999	1.6	\$15,000	\$32,000	16,000	\$25,600	\$19,200
\$2m to 2,999,999	1.15	\$23,000	\$34,500	17,250	\$27,600	\$20,700
\$3m to \$3,999,999	0.9	\$27,000	\$36,000	18,000	\$28,800	\$21,600
\$4m to 7,999,999	0.61	\$24,400	\$48,800	24,400	\$39,040	\$29,280
\$8m to 9,999,999	0.55	\$44,000	\$55,000	27,500	\$44,000	\$33,000
\$10m to 14,999,999	0.52	\$52,000	\$78,000	39,000	\$62,400	\$46,800
\$15m to \$19,999,999	0.5	\$75,000	\$100,000	50,000	\$80,000	\$60,000
Over \$20m to 100m	0.45	\$90,000	\$450,000	225,000	\$360,000	\$270,000
over \$100 million	0.4					

Notes:

1. The calculation in any category shall not result in an amount less than the maximum in the preceding level.
2. The minimum for any project shall be \$15,000

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

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May 2, 2003
IMPLEMENTATION COMMITTEE
MINUTES
CDE Building
1430 N Street, Board Room
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Jim Bush, CDE
Dave Doomey, CASH
Gary Gibbs, CBIA
Stephanie Gonos, CASBO (Alternate for John Palmer)
Beth Hamby, LAUSD
Bill Cornelison, ACS
Alex Parslow (Alternate for Dennis Dunston, CEFPI)
Sherry Gongaware, SSD (Alternate for Constantine Baranoff)
Lenin Del Castillo, DOF
Dave Walrath, SSDA (Afternoon Only - Temporary Alternate for SSDA)
Gary McGavin, AIA (Alternate for Brian Wiese)

Members Absent

Gary Gibbs, CBIA
Dennis Bellet, DSA
Jay Hansen, SBCTC

The meeting on May 2, 2003 was called to order at 9:35 a.m.; there were 13 members present and 3 absent. The alternate representatives as noted above were introduced. The minutes from the April 4, 2003 meeting were accepted.

The Chair announced security requirements of the new meeting location at the CDE Building. Attendees must bring picture identification and check in at the security desk. The Committee and audience were reminded to verify the location of the Committee meetings each month, as the location was subject to change due to the room availability.

COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS

In March 2003, the OPSC released the *Review of the Funding Methods for Continuation High, Community Day and County Community Schools* report on behalf of the Department of General Services. The law also provided that modifications be made to the current method of school facility funding for alternative education schools, as deemed appropriate. Based upon survey results, the analysis of current SFP projects, and input from the Adhoc Committee members and CDE, staff has developed recommendations regarding the appropriate classroom loading and funding methodologies for these alternative education schools as follows:

- Consider changing the classroom loading standards for Alternative Education Schools from 27/25 pupils to 18 pupils.
- Consider developing a new school allowance and small school allowance for these Alternative Education Schools.
- Consider community day, county community, and county community day schools' capital outlay facility needs the same for purposes of State funding.

As a result of input received at the April Committee meeting, the proposal was modified, as appropriate, (see Attachment A) and presented at the May meeting by Carol Shellenberger and Lori Morgan of the OPSC. Listed below are the salient discussion items:

- The surveys, studies, input and analysis which led to the report and this proposal were extensive. The proposal is designed to provide all the adequate facilities needed for the alternate education pupils.
- Consider a "new school" approach on the chart for the additional grant for support facilities for the alternate education schools.
- Consider increasing the support facilities provided for small projects.
- The issue was raised on how to handle additions to existing sites and later additions to schools built under this proposed regulation.

COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS (cont.)

- Address whether the additional grant would be a “grant” or will the OPSC review the plans to possibly reduce the apportionment based on the actual square footage built.
- It was suggested that further analysis was needed regarding the cost to build an alternate education facility. The OPSC staff commented on the extensive nature of the analysis completed to date, and that many alternative education SFP projects filed included more than the square footage recommended by the report but still could not meet the 60 percent commensurate review. Those applicants revised their applications to exclude the “new school allowance” in addition to other additional grants, because those allowances under the program had provided too much funding. Additionally, the *Review of the Funding Methods for Continuation High, Community Day and County Community Schools Report* concludes that these alternative education facilities are recommended to include a few number of classrooms to address the educational and support needs of the pupils. The “new school allowance” is designed to provide the “upfront” core facilities, and then future SFP applications are offset by the additional funding provided by the “new school allowance”. The alternate education proposals addresses the additional grants warranted to meet the needs of the pupils.
- Questions were posed regarding the process for revising the SFP baseline eligibility, as of the “snapshot” date, to reflect these alternate education classrooms.

Discussion regarding this issue will return to the June 2003 Implementation Committee meeting.

SAB/OPSC PROCESSES FOR LEASE LEASE-BACK PROJECTS

Over a period of several years, the OPSC has responded to individual school district questions on issues related to the use of the provisions of EC 17406. These responses have begun to form the office’s informal policy on lease lease-back project delivery methods. The responses are summarized below by general topic:

- The District must have title to the site on which the project will be constructed at the time that the apportionment is approved by the SAB.
- The lease agreement must contain the following provisions or information:
 - The value of the lease.
 - A provision that the title to the improvements on the site shall vest with the District upon completion of the project.
 - A provision that the lease agreement shall terminate within 180 days of the filing of a notice of completion or occupancy of the project by the District, whichever occurs first.
- State bond funds may not be used to make lease or rental payments.

It is staff’s intent to present an item to the SAB, as an advisory or possibly proposed regulations. Prior to forming recommendations for the SAB, this Committee item is presented to discuss questions and gather information. Based on input received by the Committee members and knowledgeable audience members, school districts which have used the Lease, Lease-back project delivery method cite the following as reasons for selecting it over the traditional design, bid, build approach:

- Avoid competitive bidding - Many districts consider the competitive bidding process as required under the Public Contracts Code to be problematic. The process leaves them with little control over the selection of the contractor for the project, and places them in financial jeopardy if the contractor selected is unwilling or unable to perform the construction as planned. The L, L-B process allows the district to select the contractor / developer based on criteria other than cost.
- Guaranteed price - The district is able to negotiate a fixed price for the lease and, if necessary, the purchase price of the project. Unanticipated costs are the responsibility of the contractor / developer, not the school district.
- Team approach - Districts have expressed the opinion that L, L-B allows a team approach to the construction of school facilities. The district, developer and contractor all have an interest in a project completed on time and in budget.
- Known contractor - Contractors can be selected on the basis of their record of success, recommendations from previous clients and financial strength.
- No experienced staff at district - Many districts do not have experience with large construction projects. The responsibility for co-ordination of the project, obtaining required approvals, and project scheduling become the contractor/developers, who have demonstrated experience in similar school construction projects.

SAB/OPSC PROCESSES FOR LEASE-LEASE BACK PROJECTS (cont.)

- Value engineering opportunities
- Contractors and subcontractors come from other industries; not the same as usually bid on school projects

Many valuable comments and suggestions were exchanged at the Committee meeting. The discussion of this issue will continue at the June 2003 Implementation Committee meeting.

SAB IMPLEMENTATION COMMITTEE CORRESPONDENCE PROCESS

This item was postponed for discussion at the June 6, 2003 Committee meeting.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at approximately 3:30 pm. The next Implementation Committee meeting will be on Friday, June 6, 2003 in Room 447 at the State Capitol, Sacramento, CA. Please verify the meeting location.

ATTACHMENT A

New Construction Additional Grant for Support Facilities for Alternate Education Schools As proposed at the May 2, 2003 Implementation Committee Meeting

The following is an excerpt from the May Committee agenda item:

The allowances in the chart below are based on the High School Pupil allowance for replacement facilities in the Facility Hardship regulations (Section 1859.82). The Multipurpose Facility category has been modified to allow for the option of a gymnasium in lieu of the multipurpose facility; 1,000 square feet from this category has been redirected to create a new category for counseling offices, small group areas and conference rooms; and the minimum square footage is linked to the number of classrooms in the New Construction application.

Add Regulation Section 1859.73.3 as follows:

Facility	Project contains 1 or 2 classrooms	Project contains 3 to 10 classrooms	Project contains 11 or more classrooms
Multipurpose Facility or Gymnasium (includes food service)	Minimum 2,500 sq. ft.	6.3 sq. ft. per pupil minimum 4,000 sq. ft.	6.3 sq. ft. per pupil minimum 7,200 sq. ft.
Toilet	5 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
School Administration	1,000 sq. ft. Combined Total	4 sq. ft. per pupil minimum 800 sq. ft.	4 sq. ft. per pupil plus 800 sq. ft.
Counseling offices, small group areas, and/or conference rooms		1,000 sq. ft.	1,000 sq. ft.
Library/Media Space		4.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

STATE ALLOCATION BOARD

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Sacramento, CA 95814
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June 6, 2003
IMPLEMENTATION COMMITTEE
MINUTES
State Capitol
Room 447
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Jim Bush, CDE
Dave Doomey, CASH
Gary Gibbs, CBIA
John Palmer, CASBO
Mark DeMan, LAUSD (Alternate for Beth Hamby)
Bill Cornelison, ACS
Dennis Dunston, CEFPI
Constantine Baranoff, SSD
Dave Walrath, SSDA (Temporary Alternate for SSDA)
Brian Wiese, AIA
Gary Gibbs, CBIA
Scott Wetch (Alternate for Jay Hansen, SBCTC)

Members Absent

Dennis Bellet, DSA
Lenin Del Castillo, DOF

The meeting on June 6, 2003 was called to order at 9:40 a.m.; there were 14 members present and 2 absent. The alternate representatives as noted above were introduced. The minutes from the May 2, 2003 meeting were accepted.

The Chair announced that Jim Bush of CDE was leaving State service. The Chair expressed his sincere appreciation for Jim's valued contributions to the Implementation Committee throughout Jim's years of service. Jim announced that Kent Van Gelder would be representing CDE on the Committee in the future.

SAB/OPSC PROCESSES FOR LEASE LEASE-BACK PROJECTS

This item continued from the May 2003 Committee meeting (see Attachment A for an excerpt from the May minutes). Listed below are the salient discussion items from the June Committee meeting:

- Although most comments received to date appear to be in support of use of lease, lease-back (L, L-B) as an acceptable school delivery method under the School Facility Program (SFP), comments were received from a contractor and a legislative advocate that the SAB should take issue, in the role of stewards of the State bond funds, with L, L-B since these projects are not competitively bid. A perspective was shared that under Education Code Section 17406, the L, L-B project does not have to be advertised, can have a "short list", but you still have to competitively bid the project.
- The Supreme Court majority opinion in *The City of Los Angeles v. Offner* was discussed, and the possible relativity of this opinion and the SFP provisions that a lease agreement shall terminate within 180 days of the filing of a notice of completion or occupancy of the project by the district, whichever occurs first. The question was posed, if a district is coming into the State for SFP funds, is there a "real" lease?

In the Supreme Court majority opinion in *The City of Los Angeles v. Offner*, the following was stated:

"It has been held generally in the numerous cases that have come before this court involving leases and agreements containing options to purchase that if the lease or other agreement is entered into in good faith and creates no immediate indebtedness for the aggregate installments therein provided for but, on the contrary, confines liability to each installment as it falls due and each year's payment is for the consideration actually furnished that year, no violence is done to the constitutional provision. If, however, the instrument creates a full and complete liability upon its execution, or if its designation as a 'lease' is a subterfuge and is actually a sales contract in which the 'rentals' are installment payments on the purchase price for the aggregate of which and immediate and present indebtedness or liability exceeding the constitutional limitation arises against the public entity, the contract is void."(underlining added)

SAB/OPSC PROCESSES FOR LEASE LEASE-BACK PROJECTS (cont.)

- The history of L, L-B legislation was discussed.
- A copy of an Attorney General Opinion on this topic will be shared that will be helpful. (A copy was later forwarded to the Committee members.)
- In order to later file under the SFP, you must have the option to purchase in the agreement.
- A question was posed, do we want to address only L, L-B for new construction or also address modernization?
- The draft proposal of SFP Regulation Section 1859.120(b) is inconsistent with Section 1859.120(c); ...vest with the district upon completion of the project, versus 180 days from SAB apportionment or occupancy, whichever is later.
- A question was posed, can the district's lease payments count towards their 50 percent?

Many valuable comments were exchanged. The discussion of this issue will continue at the July 2003 Implementation Committee meeting.

COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS

The *Review of the Funding Methods for Continuation High, Community Day and County Community Schools* report was postponed until the July Committee meeting. However, the Committee did receive comments from interested members of the audience regarding the need for a "grandfathering" provision in the proposal for those districts that have planned their projects and submitted plans to the Division of the State Architect based on the current regulations. Others had questions regarding the square footage recommendations and funding examples; valuable input was received.

Discussion regarding this issue will return to the July 2003 Implementation Committee meeting.

CHARTER FUND PROGRAM REVIEW

Lori Morgan of the OPSC presented this item regarding the Charter School Facilities Program Joint Report scheduled for presentation at the June 2003 SAB meeting. The law specifies that the OPSC and CSFA are required to provide a joint report to the legislature by July 1, 2003. There are three components to this report:

- Implementation of this article includes a description of the projects funded.
- Provides a description of this process whereby the board provides funding for charter school facilities.
- Includes recommendations, if any, regarding statutory changes need to facilitate and streamline the process.

The OPSC collected data from various correspondence received and meetings that occurred throughout the processing of the program. A summary of this information was shared at the Committee meeting. To further assist the OPSC in reviewing the adequacy of the amendments to the charter school program, this Committee item was presented to solicit comments and recommendations from Committee members and various stakeholders. Comments were made from Committee members and members of the public. Ernest Silva of Murdoch, Walrath and Holmes provided a letter to the Committee and verbally presented a summary. Brad Strong of Ed Voice made a presentation confirming Mr. Silva's comments and added that his organization's highest priority for change to the program was the ability to access planning funds. Many comments were made that the financial review process was too in-depth and in some ways inappropriate (i.e., legal questionnaire).

SAB IMPLEMENTATION COMMITTEE CORRESPONDENCE PROCESS

After a brief discussion, the Committee agreed with the proposed correspondence process. Most notable for the public and Committee members: If an author to a letter wishes for all Implementation Committee members to be "cc'd" on responses, the author would need to address the letter to Bruce Hancock as Chair of the SAB Implementation Committee. The process will be posted on the OPSC Web site.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at approximately 3:30 pm. The next Implementation Committee meeting will be on Wednesday, July 2, 2003 in CDE Building at 1430 N Street, Board Room in Sacramento, CA. Please verify the meeting location.

NOTE: As a result of the change to the SAB meeting date, the Implementation Committee was later advised that its July Committee meeting was changed to Wednesday, July 9, 2003 in Room 126 at the State Capitol, Sacramento, CA.

ATTACHMENT A

Excerpt from the May 2, 2003 SAB Implementation Committee meeting minutes:

SAB/OPSC PROCESSES FOR LEASE LEASE-BACK PROJECTS

Over a period of several years, the OPSC has responded to individual school district questions on issues related to the use of the provisions of EC 17406. These responses have begun to form the office's informal policy on lease lease-back project delivery methods. The responses are summarized below by general topic:

- The District must have title to the site on which the project will be constructed at the time that the apportionment is approved by the SAB.
- The lease agreement must contain the following provisions or information:
 - The value of the lease.
 - A provision that the title to the improvements on the site shall vest with the District upon completion of the project.
 - A provision that the lease agreement shall terminate within 180 days of the filing of a notice of completion or occupancy of the project by the District, whichever occurs first.
- State bond funds may not be used to make lease or rental payments.

It is staff's intent to present an item to the SAB, as an advisory or possibly proposed regulations. Prior to forming recommendations for the SAB, this Committee item is presented to discuss questions and gather information. Based on input received by the Committee members and knowledgeable audience members, school districts which have used the Lease, Lease-back project delivery method cite the following as reasons for selecting it over the traditional design, bid, build approach:

- Avoid competitive bidding - Many districts consider the competitive bidding process as required under the Public Contracts Code to be problematic. The process leaves them with little control over the selection of the contractor for the project, and places them in financial jeopardy if the contractor selected is unwilling or unable to perform the construction as planned. The L, L-B process allows the district to select the contractor / developer based on criteria other than cost.
- Guaranteed price - The district is able to negotiate a fixed price for the lease and, if necessary, the purchase price of the project. Unanticipated costs are the responsibility of the contractor / developer, not the school district.
- Team approach - Districts have expressed the opinion that L, L-B allows a team approach to the construction of school facilities. The district, developer and contractor all have an interest in a project completed on time and in budget.
- Known contractor - Contractors can be selected on the basis of their record of success, recommendations from previous clients and financial strength.
- No experienced staff at district - Many districts do not have experience with large construction projects. The responsibility for co-ordination of the project, obtaining required approvals, and project scheduling become the contractor/developers, who have demonstrated experience in similar school construction projects.
- Value engineering opportunities
- Contractors and subcontractors come from other industries; not the same as usually bid on school projects

Many valuable comments and suggestions were exchanged at the Committee meeting. The discussion of this issue will continue at the June 2003 Implementation Committee meeting.

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July 9, 2003
IMPLEMENTATION COMMITTEE
MINUTES
East End Complex
1500 Capital Avenue
Room(s) 72.148C & 72.149B
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Kent VanGelder, CDE
Dave Doomey, CASH
Gary Gibbs, CBIA
John Palmer, CASBO
Beth Hamby, LAUSD
Jay Hansen, SBCTC (Morning Only)
Bill Cornelison, ACS
Dennis Dunston, CEFPI
Constantine Baranoff, SSD
Lenin Del Castillo, DOF
Dave Walrath, SSDA (Temporary Alternate for SSDA)
Panama Bartholomy, DSA

Members Absent

Brian Wiese, AIA

The meeting on July 9, 2003 was called to order at 10:02 a.m.; there were 14 members present and 1 absent. The minutes from the June 6, 2003 meeting were accepted with a minor correction to remove duplication from the member attendance roster.

The Chair welcomed both Ken VanGelder and Panama Bartholomy as the new representatives for CDE and DGS, respectively. He also announced that Debra Pearson from Wheatland Elementary School District would be joining the Committee as the new SSDA representative.

SAB/OPSC PROCESSES FOR LEASE LEASE BACK (LLB) PROJECTS /180-DAY REIMBURSEMENT ISSUE

This item is continued from the May and June 2003 Committee meetings with the inclusion of the 180-day Reimbursement Policy under the School Facility Program. Further discussion on lease lease-back project delivery methods were made to develop a formal policy regarding the provisions of Education Code 17406 in conjunction with the 180-day Reimbursement Issue.

The Committee's goal was to:

- Not prohibit school districts from utilizing the LLB method of project delivery when all provisions of the governing law are met.
- Identify and evaluate bond funding and its constraints.
- Determine Program issues regarding baseline capacity.

Key points of the discussion are summarized below:

- Concerns were raised regarding when a LLB project would be charged under the School Facility Program. The current proposal states that "A district may receive SFP funds for facilities that have been constructed or modernized, or will be constructed or modernized, under the agreement, pursuant to 17406 provided that various requirements are met." In particular, Sections (c) and (d) of the Proposal (refer to Attachment A) were discussed and the Committee agreed that the requirements specified in these two areas should be combined.

SAB/OPSC PROCESSES FOR LEASE LEASE BACK (LLB) PROJECTS /180-DAY REIMBURSEMENT ISSUE (cont.)

- A recommendation was also made to include the Labor Compliance Program (LCP) requirement in the amended regulations.
- The issue of funding and the 180-day timelines remains unresolved and will require further discussion. The 180-day issue, will however, not be combined with LLB, but will be dealt with separately. With respect to the 180-day timeline issue, various participants voiced:
 1. Difficulty in meeting the 180-day timeline with LLB, especially in instances phased construction or design built projects.
 2. That a further review of the penalties associated for projects built with local funds that have missed the 180-day reimbursement timelines, which impacts the districts with chargeability and loss of funding issues.
 3. Because the 180-day timeline starts from the day the construction contract was executed by the district, the question arises as to whether the Agreement could be accepted as a contract for construction.
- Issues were also raised regarding the district's ability to have title to the site on which the project would be constructed at the time the apportionment was made in conjunction with the 180-day timeline and its ability to obtain funding. A suggestion was made to include a "purchase option".
- Termination of LLB Agreement within a reasonable time prior to apportionment was also discussed.
- It was shared that the main reason for the securing LLB Agreements was gain more control over the selection of the contractor for their projects and to benefit from a guaranteed maximum price. This approach also enhances the possibility of securing contractors with excellent performance records.
 1. Participants pointed out numerous situations where districts selected the lowest responsive bidder and were stuck with contractors that mismanaged the project, drove up the construction costs with countless change orders, etc.
 2. The SBCTC representative offered his assistance in meeting with Committee representatives to address problems associated with the competitive bidding process and poor performing contractors for possible legislation remedies to adjust the Public Contract Code.
- Another LLB consideration is the fact that, the term "Lease Lease Back" means different things to different lawyers.

Further discussion on the topic will be deferred until the next meeting. In the interim, OPSC will continue to draft changes to the proposed regulations as addressed above and prepare a separate item to address the 180-day timeline issue.

COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS

This item continued from the May 2003 and June 2003 Committee meetings. Lindsay Ross and Melissa Ley of the OPSC presented a revised a new school allowance proposal based upon the Minimum Essential Facility (MEF) square footage recommendations as previously presented (and generally accepted). Examples were presented to illustrate the methodology used to develop the proposed alternative education new school allowance chart, to show how the new school grant would be calculated and to demonstrate how subsequent funding requests would be determined.

An amended draft of the Use of Grant regulation (Section 1859.77.3) was presented, which provides a mechanism for school districts to obtain funding for the support facilities that may be needed at existing alternative education schools. In addition, the OPSC briefly discussed the eligibility adjustment options being considered as necessitated by the loading standard change.

The comments received appear to be in support of the revised proposal. However, some concerns and suggestions were expressed.

- Restructure the offset so district may request the new school allowance in a future application.

COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS (cont.)

- The “grandfathering” date may disadvantage districts that are nearly complete with the planning of their facility and have planned with the current new school grant in mind.

The discussion of this issue will continue at the August 2003 Implementation Committee meeting, with anticipation of presenting the proposal at the August 2003 SAB meeting.

SENATE BILL 575 SURVEY – Automatic Fire Detection/Alarm and Automatic Sprinkler Requirement

Carol Shellenberger and Lori Morgan of OPSC presented the item. A survey was conducted to review the adequacy of these grants. A detailed cost breakdown of costs representative of these costs was presented to the Committee. The survey results show that some costs were under-funded and others were over-funded. Staff presented proposed changes to the grant amounts. Staff will also examine the allowances to ensure that the revised allowances also include applicable soft costs and costs borne by older school facilities (in particular buildings 30 years or older) to cover installation of these systems. Staff will share its findings at the next Implementation Committee for finalization.

The discussion of this issue will continue at the August 2003 Implementation Committee meeting, with anticipation of presenting the proposal at the August 2003 SAB meeting.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at approximately 3:00 pm. The next Implementation Committee meeting is scheduled for Friday, August 1, 2003 at 9:30 a.m. and will held at 1500 Capitol Avenue, Rooms 72.151A and 72.149B (First Floor) in Sacramento. Please verify the meeting location.

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August 1, 2003
IMPLEMENTATION COMMITTEE
MINUTES
East End Complex
1500 Capitol Avenue
Room(s) 72.148C & 72.149B
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Kent VanGelder, CDE
Dave Doomey, CASH
John Palmer, CASBO
Mark DeMan, LAUSD (alternate for Beth Hamby)
Bill Cornelison, ACS
Dennis Dunston, CEFPI
Constantine Baranoff, SSD
Dave Walrath, SSDA (alternate for Debra Pearson)
Panama Bartholomy, DSA
Brian Wiese, AIA

Members Absent

Gary Gibbs, CBIA
Jay Hansen, SBCTC
Lenin Del Castillo, DOF
Walt Schatt, DOF

The meeting on July 9, 2003 was called to order at 9:37a.m.; there were 12 members present and 4 absent. The minutes from the July 9, 2003 meeting were approved as written.

Committee members requested that meeting dates for the 2004 calendar be discussed and scheduled at the next meeting. A request was made to change the order of the agenda to move the District Funded Facilities Included in Existing School Building Capacity (180-Day Reimbursement Issue) to the top of the Agenda. The Chair agreed but noted concern with rearranging the agenda since the arrival time of others is frequently based on the printed agenda.

DISTRICT FUNDED FACILITIES INCLUDED IN EXISTING SCHOOL BUILDING CAPACITY (180-Day Reimbursement Issue)

Staff presented amendments to the 180-Day Reimbursement requirements, which essentially state that after the date of student occupancy a district will be *ineligible* to seek reimbursement under the SFP for that project and the district's baseline will be reduced by the pupils housed. This change replaces the current regulation which requires a district to submit its funding application within 180 days of signing the construction contract.

Committee members requested the deletion from the grandfathering provisions the phrase, "projects not previously State funded"; and the clause, "the district must show evidence that, at the time the contract was signed, it had been the district's intention to seek State funding for the project."

The Committee also assisted the OPSC with determining documents that would substantiate occupancy of the project at the time of audit; for example, the school board's adopted calendar, attendance roster or fire marshal's approval.

Discussion was concluded on this issue. It will be presented to the August SAB for approval. Committee members further requested that the new regulation changes be e-mailed to all members and posted to the OPSC Internet site prior to the August 27, 2003 State Allocation Board meeting.

COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS

This item continued from the July 2003 Committee meeting. Incorporated into the proposal were the final grant figures to be presented to the State Allocation Board (SAB). This included a restructuring of the offset mechanism of the new alternative education school allowance so districts may request the new school allowance in a future application, as requested by Committee Members and others in attendance at the July meeting. Although the effective date of the "grandfathering" provision shall remain August 27, 2003, the OPSC agreed to revise the Regulation proposal to allow school districts with grandfathered projects to choose between the current and proposed new school grant.

With the Committee's consent, the OPSC declared its intent to present this item to the SAB for approval at its August meeting and will revisit this item in approximately one year in order to review the adequacy of the grant.

AMENDMENTS TO REGULATIONS FOR AUTOMATIC FIRE DETECTION/ALARM SYSTEM AND AUTOMATIC SPRINKLER SYSTEM (SB 575)

This item is continued from the July and August 2003 Committee meetings. Staff had previously presented proposed changes to the grant amounts based on OPSC survey data. After reviewing the proposed grant amounts, members requested staff to report on whether the revised grants included applicable soft costs and costs borne for older school facilities. Staff found that the soft costs were included in the survey and increased the grant amounts by an additional five percent for miscellaneous soft costs. The committee concurred with the amendments.

Discussion was concluded on this issue. It will be presented to the August SAB for approval.

SAB/OPSC PROCESSES FOR LEASE LEASE-BACK PROJECTS AND PROPOSED REGULATIONS

This item is continued from the May, June, and July Committee meetings. Further discussions on this topic included:

- **Issue of Retroactivity** - Committee agreed that these regulations would be applicable only to LLB projects approved on or after the effective date of the regulations.
- **Change of Title** - Revise existing title to "1859.23 SFP Application for Funding of Projects Leased Under the Provisions of Education Code Section 17406."
- **Lease Termination** - Notice of Completion language amended to state "last Notice of Completion for the project."
- **Grandfathering Provisions** - Grandfathering provisions are also included in the regulation to allow previously ineligible projects to be funded.

Staff will incorporate changes to the proposal for presentation at the next available SAB meeting.

BOND ACCOUNTABILITY

Due to concerns regarding the transfer of funds received by the SAB directly into the General Fund by a school district without reimbursing the Restricted County School Facilities Fund, staff previously shared with Committee members the Attorney General's (AG) legal opinion on the subject.

Staff reported that a regulation is currently being drafted to ensure that the tax exempt status of State and local bonds is not jeopardized. A draft of the regulation will be presented to the Committee at a future date.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at 3:20 p.m. The next Implementation Committee meeting is scheduled for Friday, September 5, 2003 at 9:30 a.m. This meeting was later cancelled.

The next scheduled meeting will be held on October 3, 2003 at 9:30 a.m. and will be held at the California Department of Education building at 1430 N Street, 1st floor Board Room in Sacramento. Please verify the meeting location.

STATE ALLOCATION BOARD

1130 K Street, Suite 400

Sacramento, CA 95814

<http://www.dgs.ca.gov/opsc>**IMPLEMENTATION COMMITTEE MINUTES**

October 3, 2003

East End Complex
1500 Capitol Avenue
Room (s) 72.148C & 72.149B
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Kent VanGelder, CDE
Dave Doomey, CASH
John Palmer, CASBO
Beth Hamby, LAUSD
Bill Cornelison, ACS
Dennis Dunston, CEFPI
Constantine Baranoff, SSD
Debra Pearson, SSDA
Panama Bartholomy, DSA
Brian Wiese, AIA
Gary Gibbs, CBIA (morning only)
Jay Hansen, SBCTC (morning only)

Members Absent

Lenin Del Castillo, DOF
Walt Schaff, DOF

The meeting on October 3, 2003 was called to order at 9:40 a.m. There were 14 members present and 2 absent. The minutes from the August 1, 2003 meeting were approved with two minor corrections.

Committee members welcomed Debra Pearson as the new SSDA representative. The Chairman also announced the status of various items presented to the State Allocation Board:

- 180-Day Reimbursement Issue - Approved at the August 2003 SAB meeting
- Community Day/Continuation High School Loading and Funding - Will be presented at the October 22, 2003 SAB meeting
- Amendments to the Automatic Fire Detection/Alarm and Sprinkler - Approved at the August 2003 SAB meeting

- Processes for Lease Lease-Back (LLB) - Item was presented to the SAB in September as a report only. Staff was directed to further review LLB with the Implementation Committee and bring back the item to the Board in January 2004.
- Bond Accountability - Included for discussion at the October 3, 2003 Implementation Committee meeting.

2004 IMPLEMENTATION COMMITTEE MEETING DATES

With the exception of the date for the January 2004 Implementation Committee (IMP) meeting, members approved the suggested meeting dates presented by staff. Due to current budgetary constraints, all meetings will be held in Sacramento.

Prior to the selection of the dates selected below, the committee took into consideration all conflicting dates for holidays, conferences and meetings. The IMP meeting dates for 2004 will be:

Thursday, January 8, 2004
 Friday, February 6, 2004
 Friday, March 5, 2004
 Friday, April 2, 2004
 Friday, May 7, 2004
 Friday, June 4, 2004

Friday, July 9, 2004
 Friday, August 6, 2004
 Thursday, September 2, 2004
 Friday, October 1, 2004
 Friday, November 5, 2004
 Friday, December 3, 2004

BOND ACCOUNTABILITY

This item was continued from the August 2003 Committee meeting. Staff previously shared concerns expressed by the SAB regarding the placement of SFP funds directly into a district's general fund without reimbursing its capital project fund. As directed by the Board, the OPSC was asked to seek the opinion of both the Attorney General and tax counsel to determine whether the tax exempt status of the State and local bonds would be jeopardized. In response to the Board's direction to amend the SFP Regulations to include a "bond accountability" regulation, staff presented to the Committee proposed regulations to address the bond accountability issue.

Some Committee members questioned the necessity for a regulation since there are already laws and procedures in place to monitor the transference of local bond funds.

BEST PRACTICES

Several participants voiced concerns regarding the State Allocation Board's (SAB) attempt to standardize certain best practices contained in the Best Practices Report. Some expressed concern that it was a shift from local to State jurisdiction. Staff alleviated these concerns and pointed out that the SAB did not have the authority to either standardize or provide reward incentives for the utilization of these best practice methods.

Staff requested that the Committee recognize the importance of the educational merits of the report as it served to provide districts with valuable information that could be used to manage construction projects. These methods could ultimately equate to time and cost savings – savings that could be later used by the district for other high priority capital outlay expenditures.

It was also pointed out that a reuse of plans is not always feasible in situations where site issues are apparent such as soil liquefaction or seismic concerns.

The Committee provided suggestions to assist staff with efforts to promote the reports usage as a valuable resource tool and added that many participants would be more than happy to hold various workshops to assist districts, especially with respect to their regional needs and budgetary concerns.

CHARTER SCHOOL FACILITY PROGRAM REGULATION AMENDMENTS

Staff provided a summary of the significant topics of discussion and the proposed outcome/resolution:

- **The OPSC introduced a proposal, Attachment C** of the item, to begin the discussion on the total project caps required by Senate Bill (SB) 15. Members of the audience presented some alternative methods and options for review and the OPSC will review those proposals and continue to work towards appropriate total project funding caps.
- **Charter School General Location** – the proposed regulations provide a new definition to determine the median cost for a charter school. The definition means a three-mile radius from the present or proposed location of the charter school project as identified in the chartering agreement. Members of the audience expressed concern that a street address may not be clearly identified in the chartering agreement, OPSC agreed to review the current proposal.
- **Definition of Small, Medium, and Large Charter Schools** – the proposed regulations provide revisions to the ranges that define a small, medium, and large size charter schools. The basis for making the change was to provide greater variance for the applications. In the last funding cycle a majority of the applications received fell into the medium range. It was suggested that the range for a small charter school might be too large and OPSC agreed to do further research and present revised numbers.
- **Baseline Eligibility** – The OPSC requested the assistance of the committee and audience to develop a means for submitting current enrollment data when the charter school submits an application on its own behalf. Further discussion to continue at the next meeting.
- **CDE Recommended Site Size** – SB 15 requires the numbers of acreage to be limited for the project. The proposed regulations provided new numbers that are 50 percent of the recommended site size per pupil of a traditional school. All allowances would be based on the new acreage amount. Committee members and the audience presented an option that would reduce the acreage even further and the OPSC agreed to discuss with CDE.

CHARTER SCHOOL FACILITY PROGRAM REGULATION AMENDMENTS (cont.)

- **Urban Allowance** – With the revised acreage numbers the urban allowance would be based on the “new” recommended site size. Concern was expressed that this would lessen the urban allowance even though the district still had the added cost of building on a small site, OPSC agreed to review the allowance.

The OPSC will prepare proposed regulations to reflect the above and return to the Committee at the November meeting for further discussion.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Friday, November 7, 2003 at 9:30 a.m. and will be held at 1500 Capitol Avenue, Rooms 72.148C & 72.149B, in Sacramento, California.

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814
<http://www.dgs.ca.gov/opsc>

**IMPLEMENTATION COMMITTEE MINUTES**

November 7, 2003

East End Complex
1500 Capitol Avenue
Room (s) 72.148C & 72.149B
Sacramento, CA

Members Present

Bruce Hancock, SAB	Dennis Dunston, CEFPI
Lori Morgan, OPSC	Constantine Baranoff, SSD
Fred Yeager, CDE	Debra Pearson, SSDA
Dave Doomey, CASH (Morning Only)	Panama Bartholomy, DSA
Nina Young, CASH (Afternoon Only, as Alternative for CASH)	Brian Wiese, AIA
John Palmer, CASBO (Morning Only)	Gary Gibbs, CBIA
Lettie Boggs CASBO (Afternoon Only, as Alternative for CASBO)	Jay Hansen, SBCTC (Afternoon Only)
Beth Hamby, LAUSD	Lenin Del Castillo, DOF
Bill Cornelison, ACS	

The meeting on November 7, 2003 was called to order at 9:35 a.m. All members were present. The minutes from the October 3, 2003 meeting were accepted as written.

SUGGESTIONS FOR FUTURE IMPLEMENTATION ITEMS

Three items; special education student transfers, a review of criteria for alternative energy supplemental funding, and continued discussion on the Best Practices were proposed as prospective items for future Implementation Meetings. All three items are currently under discussion at the OPSC.

CHARTER SCHOOL FACILITY PROGRAM (CSFP) REGULATION AMENDMENTS

The Committee was informed that the SAB approved emergency regulatory amendments to revise the application-filing period at the October 2003 meeting. Staff anticipates finalizing the proposals at the December 2003 and January 2004 Committee meetings in hopes of presenting emergency regulations to the January 2004 SAB meeting. It was also clarified that projects which did not receive approval/funding during the previous 2002 bond funding cycle must resubmit their applications to be eligible to receive funding from the 2004 bond measure.

Staff provided a brief summary of the outstanding items from the October meeting and those outcomes. Following is a summary of the significant discussion items:

Definition of Low Income

Staff feels that the use of Free/Reduced Lunch documentation for the purposes of calculating preference points for the CSFP is the most equitable and measurable method. It is used in other programs administered by the State to classify low-income. Audience proposed ELF qualification data as another possible means. A concern was expressed that district wide data may not be reflective of the local demographics of a proposed charter site. It was suggested that demographics from the charter school general location be used for the determination of low-income qualification. The asked proponents of other “low income” measures to provide information as to how the alternatives would be better measured.

Total Project Funding Cap

The discussion began with a reminder that Senate Bill (SB) 15 (Alpert) requires the SAB to establish project funding caps with the intention of maximizing the number of charter school projects funded. Since the last meeting, staff revised the high school cap from \$15 million to \$10 million based upon receiving current average enrollment data. The proposal would be to exclude from the cap amount all costs associated with site acquisition, including relocation costs, DTSC fees, appraisal, escrow fees, and hazardous material clean up. Several proposals relative to the funding caps were discussed as follows:

Site Acreage Cap and Urban Allowance

There was discussion about limiting the acreage to 40 percent of the California Department of Education (CDE) recommended site size for purposes of determining the preliminary apportionment with the option to increase at the time of final apportionment. SB 15 is clear that the SAB is to limit the amount of acreage for the project; therefore, the preliminary apportionment acreage and final apportionment acreage need to be consistent. The OPSC will continue to work with CDE to determine what the appropriate site size is for charter schools.

Site size is a factor in determining the urban allowance and one of the measures to receive the allowance is if the site being acquired is 60 percent or below the recommended site size. It was proposed that the calculation should be based on the new recommended site size, which would make it more difficult for an applicant to qualify for the urban allowance – building on the theme of capping construction costs. Concern was expressed that urban districts still have the challenges of building in an urban area and that would not be taken into consideration under the current proposal. The OPSC agreed to look at the urban calculation and perhaps determine another method specific for charter schools.

Toxic Remediation Set Aside

The OPSC agreed to continue working with legal counsel to determine if the SAB had the authority to set funds aside from the \$300 million to create a pool for applicants to draw from as projects convert to a final apportionment. If possible, the OPSC agreed to come back with a dollar amount that should be set aside for toxic remediation.

Inflator Factor

Consensus was reached that the inflator factor should not be lowered to the proposed 6 percent but that the cap would control the inflator.

Relocation and Condemnation

The OPSC agreed to look into setting aside funds for relocation expenses from the \$300 million similar to toxic remediation.

Increasing Efficiencies

This concept to maximize efficiencies by building for 1.25 pupils for every pupil grant used was not supported by the Committee and will not be explored further.

The discussion on this issue will continue at the December Committee meeting.

CRITICALLY OVERCROWDED SCHOOLS (COS)

Staff proposed options and/or regulation modifications for the COS program relative to technical issues as follows:

Use of Grants Utilized on a COS Project

In order to clarify the option of utilizing a UOG request when submitting a Preliminary COS Application, staff proposes to add a reference to that effect to the SAB Form 50-08 instructions. There were no objections.

Hazardous Waste Removal for Existing Sites

Staff proposed regulatory changes so that the COS program would allow for adequate Preliminary Apportionment to be given to the districts in need of hazardous waste removal on *existing* sites.

Inflation Factor Percentage Allowance Determination

Staff proposed to the Committee an inflation factor calculation to be used for the 2004 COS filing period and subsequent filing periods. The proposed calculation would help in determining an accurate reservation amount at the Preliminary Apportionment stage.

Discussion was concluded on this issue. It will be presented to the December SAB for approval. *(This was later revised to be presented at a future SAB meeting.)*

FINANCIAL HARDSHIP BONDED INDEBTEDNESS

Senate Bill 303 restricts the type of debt that is recognized in meeting the 60 percent of the district's total bonding capacity requirement to only debt that is issued for the purpose of constructing school facilities. Staff presented the proposed regulation changes to reflect this new legislation. Staff will ensure what constitutes "school facility" will be clarified in the SFP audit guide.

Discussion was concluded on this issue. It will be presented to the December SAB for approval. *(This was later revised to be presented at a future SAB meeting.)*

LEASE-LEASE BACK (LLB)

Staff restated its concern that LLB (EC Section 17406) is being used as a delivery method in order to avoid competitive bid requirements in the Public Contract Code. Recent broad interpretations of EC Section 17406 appear to serve to make the public contract competitive bid requirements moot, and effectively eliminate competitive bidding on all new construction and modernization public school projects, whether funded locally or in conjunction with the State program.

Staff proposed regulations that reflect that LLB agreements may be used only for new construction or modernization projects that do not intend to seek State funding for the project, or as a funding mechanism during times that State funding is not available. Concerns from the audience were raised followed by extensive discussions. Comments were shared that legislation should be pursued to either amend the LLB section to require a competitive selection process, and/or that the PCC needs to be amended to address the problems related to awarding a public works contract on the lowest bidder.

The Committee and audience members were in favor of presenting to the SAB proposed SFP regulation amendments that would require SFP projects that were built through LLB to include a competitive selection process in the interim to bridge this issue until it is addressed by a legislative remedy.

The discussion on this issue will continue at a future SAB Implementation Committee meeting.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Friday, December 5, 2003 at 9:30 a.m. and will be held at 1500 Capitol Avenue, Rooms 72.148C & 72.149B, in Sacramento, California.

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December 5, 2003

East End Complex
1500 Capitol Avenue
Room (s) 72.148C & 72.149B
Sacramento, CA

Members Present

Bruce Hancock, SAB
Lori Morgan, OPSC
Fred Yeager, CDE
Dave Doomey, CASH
John Palmer, CASBO
Beth Hamby, LAUSD
Bill Cornelison, ACS
Dennis Dunston, CEFPI

Constantine Baranoff, SSD
Debra Pearson, SSDA
Dennis Bellet, DSA (afternoon only)
Brian Wiese, AIA
Gary Gibbs, CBIA
Jay Hansen, SBCTC (afternoon only)
Lenin Del Castillo, DOF

Members Absent

None

The meeting on December 5, 2003 was called to order at 9:35 a.m. The minutes from the November 7, 2003 meeting were approved as written.

CHAIR REPORT

The Chair responded to recent queries regarding the funding of Lease Lease- Back (LLB) projects. Although the regulations governing LLB projects have not been agreed upon and formalized by the Committee, the Chair indicated that there are no regulations that preclude funding of LLB projects under the School Facility Program (SFP), if all applicable funding requirements have been met and the application falls within the existing 180-day time line currently specified under the regulations.

Pursuant to the Governor's order regarding a hold on all regulatory legislation, the Office of Public School Construction (OPSC) has submitted a package to the Department of General Services seeking exemption for previously presented legislation. This package includes amendments to the 180-day reimbursement timeline regulation affecting LLB projects.

Since the SFP regulatory changes presented in the legislative provide an economic stimulus to the State, it is anticipated that by January 2004, there should be some clarity on government processes and the status of pending SFP regulations.

CHARTER SCHOOL FACILITY PROGRAM REGULATION AMENDMENTS

The discussion continued from the October and November meetings regarding implementing the changes to the Charter School Facility Program contained in Senate Bill (SB) 15. Much of the discussion at this meeting focused on the primary issue, the establishment of funding caps for charter school projects. Staff reminded the committee and audience of the requirements in SB 15, which requires the SAB to establish project funding caps with the intention of maximizing the number of charter school projects funded, including limiting the amount of construction funding for each project.

Total Project Funding Cap

To address some of the concerns from previous meetings, staff presented a funding cap proposal, which differed slightly from the October and November proposal. The revised proposal: 1) caps the amount of eligibility that may be requested and 2) limits the funding provided to 75 percent of full grant. All costs associated with site acquisition, including relocation costs, DTSC fees, appraisal, escrow fees, and hazardous materials clean up, would be excluded from the cap.

There was a lot of discussion on setting the funding limit at 75 percent, especially regarding the basis on which the amount was determined and as to whether the amount can be increased. Staff indicated that they would review the percentage amount to determine if it should be increased but felt that this proposal, regardless of the percentage, is the only one explored thus far that meets the intent of SB 15 of providing funding limits for each project. Concern was expressed by several parties regarding the underlying message that may be sent by providing charter schools with less facility funding than school districts, and how that may potentially impact the amount of facility funding granted to school districts in the future. In addition, there was a lot of discussion as to whether charter schools would be able to build a facility meeting all the State standards without the benefit of receiving the total amount of State funding allowed under the regular School Facility Program.

The California Charter Schools Association presented an alternative proposal, which limited the number of pupils that may be requested and carried over the previous construction caps of \$5, \$7, and \$10 million. It would also allow for the cap to be exceeded by the amount by which the project qualified for an urban and multi-level allowance.

The Chair ended the discussion by commenting that it appears a consensus may not be reached on this issue, and that if the 2004 Bond is still scheduled for the March primary, time is running short to come to agreement prior to presenting regulatory changes to the January 2004 State Allocation Board meeting. However, if the bond is postponed until November, staff and the Committee will have additional time to come to agreement.

Funding Set Asides for Relocation and Hazardous Materials Clean-up

At previous meetings the concept of establishing funding pools for hazardous materials clean up and relocation/DTSC funding was agreed upon. Staff presented the methodology to be used to determine the amount of funding to set aside from the \$300 million and agreed to explore solutions to contend with the possibility of exhausted funds in the pools.

The discussion will continue at the January Committee meeting.

SFP JOINT-USE PROGRAM (SB 15)

Staff provided a brief summary of the three major changes to the Joint-Use Program due to the passage of SB 15, as well as a portion of the amended regulations.

Alterations to Types

Staff explained that the previous Type I and Type II have been combined into a new Type I. A facility to provide for pupil academic achievement will no longer be acceptable under the new Type I under the new law. The new Type II allows for the construction of a new joint-use facility or the reconfiguration of existing school buildings to provide certain minimum essential facilities under a grandfathering provision. In order to qualify under the grandfathering provisions, plans and specifications must be accepted by the Division of the State Architect by January 1, 2004.

Reconfigure Defined and Proposed Implementation

Staff presented various examples of reconfiguration scenarios, and defined the parameters in which it can occur. For purposes of SFP Joint Use, "reconfiguration" is defined as remodeling an existing school building within its current confines and/or the expansion of the square footage of the existing building.

Joint-Use Partner Contribution

The Committee was advised that the state and local contribution to a joint-use project remains 50/50; however, the joint-use partner contribution has been reduced to a minimum of 25%. In addition, the District can opt to pay the full 50% local share of eligible costs if the District has passed a bond, which specifies that the monies are to be used specifically for the purposes of the joint-use project. It was clarified that matching share for financial hardship districts will not be provided by the State.

This item and the proposed regulations will be presented again at the January Implementation meeting.

LEASE LEASE-BACK

The topic of LLB has been discussed at various Committee meetings with no resolution. Therefore, in lieu of presenting regulation changes to the State Allocation Board (SAB), the OPSC plans to present a report to the Board in January 2004 regarding the LLB issue, and to ask the Board for further direction. The report, presented to the Implementation Committee for preview, outlines the serious public policy consequences relative to the current interpretation of Education Code (EC) Section 17406.

The report will include attachments of documents and correspondence from various sources including professionals from the building industry and legal firms.

Many of the same concerns expressed in previous meetings were reiterated, including the SAB's main concern that the competitive bidding process is not included in the LLB processes. Committee members agreed that the report presented to the SAB should contain an impartial analysis of the LLB issue. The Chair agreed to review and edit the current report with this in mind and will present the revised report to the January Implementation Committee.

ADJOURNMENT AND NEXT MEETING

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Thursday, January 8, 2004 at 9:30 a.m. and will be held at 1020 N Street (Legislative Office Building), Room 100, in Sacramento, California.